

**Page Denied**

**EXECUTIVE SECRETARIAT**  
ROUTING SLIP

*ER*

TO:

		ACTION	INFO	DATE	INITIAL
1	DCI				
2	DDCI				
3	EXDIR				
4	D/ICS				
5	DDI				
6	DDA				
7	DDO				
8	DDS&T				
9	Chm/NIC				
10	GC				
11	IG				
12	Compt				
13	D/OCA				
14	D/PAO				
15	D/PERS				
16	D/Ex Staff				
17	D/OGT		X		
18	<i>ER</i>				
19					
20					
21					
22					

SUSPENSE

Remarks Attn:

STAT

3637 (10-81)

Executive Secretary  
3 Nov 87

Date



Executive Registry

87-3162X/2

United States Department of State

*Bureau of  
International Communications  
and Information Policy*

*Washington, D.C. 20520*

29 October 1987

TO: SIG Membership on ICIP

FROM: CIP - Diana Lady Dougan, U.S. Coordinator *DL*

SUBJECT: Meeting of the SIG Working Group on U.S.  
International Satellite Policy

The 9 September meeting of the SIG on International Communications and Information Policy established a Working Group on U.S. International Satellite Policy. The initial meeting of the Working Group has been scheduled for 10:30 a.m. 6 November 1987, in Room 7835 at the Department of State.

I have attached several documents for your agency's review, and look forward to the active participation of your representative.

If you have any questions please call either of the co-Chairmen: Randolph Earnest, State (647-8344) and Robert Frieden, NTIA (377-1304).

Attached:  
Working Group Timetable  
SIG Issue Paper  
NTIA Contribution

W0183n

*B-601-1R*

SIG WORKING GROUP  
U.S. INTERNATIONAL SATELLITE POLICY

PROPOSED TIMETABLE/WORKPLAN

	29 Oct	Mail out to SIG members an invitation to participate in the SIG Working Group on U.S. satellite policy.
WG-1	6 Nov	Review of relevant documents and issues. Solicitation of any new proposals or policy alternatives. Request for discussion papers with pros and cons of alternatives - and recommendations by next meeting.
WG-2	12 Nov	Analysis/Discussion of alternatives and position papers.
WG-3	24 Nov	Focus on "best" recommendations.
WG-4	3 Dec	Review of Draft Final Paper.
WG-5	10 Dec	Completion of Final Paper for presentation to SIG Meeting

1114d

August 31, 1987

Senior Interagency Group - September 9, 1987

Agenda Item #1: U.S. International Satellite Policy -  
"Separate Systems" and "Transborder"

ISSUE:

To clarify U.S. policy regarding two areas of activity - use of U.S. domestic satellites for "transborder" service to neighboring countries and use of U.S. international satellite systems separate from the INTELSAT system.

BACKGROUND:

Our "transborder" satellite policy stems from a 1981 letter from Undersecretary Buckley to the Chairman of the Federal Communication Commission (FCC) (see attachment A). The letter notes that "certain exceptional circumstances may exist where it would be in the interest of the United States to use domestic satellites for public international telecommunications with nearby countries." Such cases would be where INTELSAT could not provide the required service or where it would be clearly uneconomical or impractical for INTELSAT to do so. Nevertheless, the burden of demonstrating the reasons warranting reliance on domestic satellites for international purposes would rest on the proponents.

The letter contemplated consultation pursuant to Article XIV (d) of the INTELSAT Agreement and the concurrence of the foreign governments concerned. In closing, the letter identified pending applications where no national or foreign policy interest prevented FCC consideration of whether the public convenience and necessity would be served by international use of domestic space segment, while acknowledging that future proposals could vary considerably and could require a de novo review.

This letter has become known as the "Buckley letter", and is generally viewed as allowing use of U.S. domestic satellite systems to provide communications to nearby countries covered by the spillover "footprint" of U.S. satellites (and vice-versa). No general review of the policies of the Buckley letter has been conducted to date. It is appropriate to do so at present: while the Buckley letter does not address service restrictions, the

- 2 -

prohibition of interconnection with the public-switched network is a key element in the later policy statements conveyed to the FCC by Secretaries Shultz and Baldrige.

In 1984, a Presidential policy governing U.S. international satellite systems separate from INTELSAT was established. Secretary of State Shultz and Secretary of Commerce Baldrige informed the FCC that any such systems were restricted to providing services not connected with public switched networks; that the services must be provided through sale or long term lease; that they must be consulted with INTELSAT under Article XIV of the INTELSAT agreement; and they must be authorized by foreign authorities in the country(s) of operation (see attachment B).

#### DISCUSSION

There are presently petitions before the FCC which are viewed by some as leading to an expansion of the application of the Buckley letter (and its lack of service restrictions) at the expense of the criteria given in the Shultz-Baldrige letter. The Shultz-Baldrige letter criteria were premised on the issues prompted by the then-pending applications before the FCC (largely service across the North Atlantic). The Shultz-Baldrige letter contemplated later review if substantially different proposals were forthcoming. Notwithstanding this review language, the U.S.G. drew upon the interconnection restrictions in the Shultz-Baldrige letter to lessen international concern about the U.S. separate systems policy.

Presently, those satellite systems designed for international use and those designed for domestic use have been relatively easy to distinguish. However, instances will certainly arise in which the two policies overlap into a gray area where it is not clear which policy would apply. Even in those cases where the designated use of a satellite system is clearly discernable, the rationalization for having different criteria apply to potentially identical satellites, providing identical technical capabilities to the same locations is subject to challenge (e.g., a "separate system" and a "transborder system" may currently face different service restrictions on their operations between the United States and the Caribbean).

Several recent developments have increased the necessity for the government to resolve or at least justify the apparent differences between our two U.S. satellite policies. In early 1987, the Federal Communications Commission determined that U.S.

- 3 -

domestic satellite service to Jamaica fell within the 1981 transborder satellite policy as defined in the Buckley letter. The Commission noted that this policy did not restrict satellite service interconnection with the public network. In statements made at INTELSAT's Eleventh Assembly of Parties, the representative of U.S. Party noted that this decision was made in the context of a satellite which was primarily designed for domestic service and met our stated policy goal of promoting efficient use of the orbit. She also noted that other regions have developed satellite systems which provide more than domestic services but which face no restrictions on interconnecting with the public switched network.

COMSAT, the U.S. Signatory to INTELSAT, has challenged the Commission's action in court - as being contrary to the U.S. separate systems policy. Moreover, AT&T has filed with the FCC to provide U.S. domestic satellite services to the Caribbean region. PanAmSat, whose international satellite system covers the Caribbean, has formally commented that AT&T should not be authorized to interconnect with the public network in this region while PanAmSat, operating under the "separate systems" constraints, would be prohibited from such interconnection. Such a result could be considered to be inequitable treatment.

While the FCC may determine to apply the less restrictive "transborder" approach from a U.S. regulatory standpoint, the Executive Branch must consider the matter in the context of statute as well as foreign and national policy since the President, under the terms of the 1962 Satellite Act, shall determine whether a proposed communications satellite system outside INTELSAT is required in the national interest. The current application of the policies is not sufficiently clear to provide the necessary certainty for either commercial or foreign policy purposes.

In summary, the issue is not to reconsider these established policies but rather to clarify the issue of which policy applies to a given specific satellite system serving a given geographical region.

#### DISCUSSION QUESTIONS:

-- A U.S. domestic satellite system has a coverage zone which extends deeply into South America. Will this system fall under the transborder or separate system policy?

- 4 -

-- The satellite systems can be easily distinguished as either "domestic transborder" or "separate international", however, common countries could be served by both systems. Would a different policy apply to each system?

POLICY OPTIONS:

- o A U.S. international communications satellite policy that would apply the "separate systems" and "transborder" criteria on a geographical basis, rather than on a satellite system basis (i.e., all systems serving a given geographic region would face the same criteria).

In practice, this would formally expand the "transborder" policy to a "regional" policy as is the case in Europe and elsewhere. That is, for hemispheric regional satellite systems analogous to EUTELSAT, ARABSAT and PALAPA, INTELSAT's Article XIV procedures would be considered sufficient to guard against significant economic harm. However, for "trans-regional" separate systems an extra measure of protection for INTELSAT, over and above Article XIV consultation, would be provided: i.e., restriction against interconnection with public switched networks. Clearly, under this option other significant issues, such as definitions of regions, must be determined.

- o Allow satellite systems, whether U.S. "separate systems" or U.S. "transborder", to interconnect with public networks in each country at the request of that country.

If the system elects to restrict itself to customized non-public network services, then this could be considered prima facie evidence of insignificant economic harm to INTELSAT. A greatly simplified and expedited Article XIV process might then apply. If the system elects to interconnect with the public network, then the normal in-depth Article XIV process would be necessary to deal with the issue of significant economic harm.

The SIG Working Group will address the commercial and foreign policy implications of either of the above policy options, or any other options presented to the working group.



## **SENIOR INTERAGENCY WORKING GROUP ON TRANSBORDER AND SEPARATE SYSTEM POLICIES**

### **Preliminary Views of the National Telecommunications and Information Administration**

#### **INTRODUCTION**

Since the inception of a domestic satellite industry in the United States, operators have recognized the commercial merit to serving all points within the satellite's footprint. As the geographical territory covered by U.S. domsats traverses political boundaries, questions have arisen over the permissible scope of such transborder services and their impact on INTELSAT. With the 1984 Presidential Determination that international satellite operations separate from INTELSAT are in the national interest, a different policy was formulated for satellite systems intended for international service.

#### **The Separate System Policy**

The Executive Branch devised, and the Commission concurred in, the separate system policy that envisions limited international satellite service competition. Secretary of State Shultz and Secretary of Commerce Baldrige informed the FCC by letter that separate systems must be provided through sale or long term lease and cannot access the public switched network at either end. This policy safeguards INTELSAT's core revenues from competition and contemplates that separate systems will stimulate demand and provide new services rather than cause significant traffic migration from INTELSAT.

#### **The Transborder Policy**

Both prior to and after formulation of the separate system policy, the Commission and the Executive Branch also worked to implement the transborder policy. A 1981 letter from Undersecretary of State Buckley to the Chairman of the FCC ("Buckley letter") outlined the scope of this policy that addresses "certain exceptional circumstances ... where it would be in the interest of the United States to use domestic satellites ["domsats"] for public international telecommunications with nearby countries." The Buckley letter contemplated cooperation with INTELSAT under the Article XIV consultation process and the concurrence of the foreign governments where domsat signals would be received or transmitted.

Initial close coordination within the government ensured the absence of controversy over the expanded reach of domsats and the first applications submitted to the FCC addressed limited instances of international service primarily to incidental traffic to Canada and Mexico. Such traffic streams could impose no economic harm to INTELSAT as they represented the kind of

traffic customarily carried via terrestrial microwave systems.

Authorizing the use of domsats as substitutes recognized that such traffic technologically could not be contained within U.S. borders, because the footprints of domsats "spilled over" to nearby countries. In any event, INTELSAT was not apt to carry such traffic, because users would not pay its significantly higher rates merely for transborder coverage, or because INTELSAT was technically unable to provide such service.

Because of the insignificant financial impact of transborder systems on INTELSAT, the FCC grants such applications without imposing the restrictions on access to the public switched network required by the separate system policy. A recent FCC decision and pending applications may have the effect of expanding the reach of the transborder policy, or generating confusion over the scope of both the separate system and transborder policies.

### Developing Tension Between the Two Policies

#### The AT&T Application

AT&T has applied to provide a wide array of two-way private line business services to 33 nations and territories throughout the Caribbean and the Americas via its domestic TELSTAR system and the domestic satellites of Mexico and Canada. FCC File No. I-T-C-87-099. In seeking to provide two-way services to any international point covered by such satellites, ostensibly designed to serve domestic points, AT&T hopes to apply the Commission's transborder policy for the broadest possible geographical coverage.

The AT&T application may present INTELSAT with an opportunity to demonstrate multi-million dollar revenue diversion given its "worst case" methodology when assessing economic harm from separate systems. INTELSAT maintains an ongoing percentage calculation of cumulative economic harm caused by "traffic diversion" from both separate systems and transborder domsats pursuant to Article XIV(d) of the INTELSAT Agreement. At prior INTELSAT Assembly of Parties, a number of countries have endorsed the premise that INTELSAT should not favorably consult with separate systems after the cumulative economic harm calculation reaches ten percent. As of October, 1987 the running total of alleged economic harm stood at 6.7%.

#### The Jamaica Teleport Decision

The Commission's Jamaica Teleport decision, which has been challenged in court by Comsat, also has generated confusion. Having read the Jamaica Teleport service plan as requiring dial up access, the Commission decided to apply its transborder policy. The Executive Branch's comments on the Jamaica Teleport

application asserted that certain international uses of domsats should be considered in the context of the separate system policy. A preliminary determination whether the application could fit within the existing separate system policy might have abated the subsequent concern expressed by some members of INTELSAT that the United States has abandoned the safeguards designed to protect INTELSAT's core revenues.

### The Canadian Anik (e) Plan

Canada has announced plans to install on each of its four Anik (e) satellites (launches beginning in the 1989-1990) one steerable spot beam that can focus on the United States. Such intentional positioning of the center point of a satellite beam, its "boresight," potentially raises new questions on the difference between a transborder and separate system.

Canada has equity concerns over the volume of U.S. domsat signals traversing its territory (more than 400) versus the number and coverage of Canadian transponders accessible in the U.S. While the number of Canadian beams with U.S. boresights would be insignificant, and some beams for U.S. satellite service to Alaska might actually have a boresight within Canada, the potential impact on U.S. domsat operator plans is substantial.

If the U.S. consents to the Canadian plan for intentional coverage of the U.S. via a Canadian domsat, we run the risk that U.S. domsat operators will demand service rights no less favorable than that accorded foreign satellite operators. Notwithstanding the merit to Canada's equity claim for balance in transponder volumes, U.S. domsat operators might take any concession as a mandate for their intentional placement of domsat beams onto foreign countries. Such intentional placement of an allegedly domestic beam into foreign territory would expand the potential territorial breadth of transborder service.

### PRELIMINARY ASSESSMENT

Our legal commitments to INTELSAT may require us to assess the scope and impact of both transborder domsats and separate systems to prevent causing significant economic harm. Because switched telephony services still constitute over 75 percent of INTELSAT's revenues, dial up access, like that provided to Jamaica Teleport, is perceived by INTELSAT to have a greater impact than the non-switched services proposed by PanAmSat.

INTELSAT and its constituent nations may begin to view transborder authorizations as potentially more damaging than separate system authorizations, despite previous assurances and distinctions voiced by the United States. Such an outcome could strain relations with INTELSAT and cast doubt on our commitment to safeguard INTELSAT's core revenues from U.S. sanctioned

satellite competition. While this broadened transborder policy may enhance the international business prospects of some U.S. domsat providers, it may do so to the relative disadvantage of U.S. separate system applicants.

Both the Buckley letter and the separate system policy acknowledge that future proposals could vary considerably and could require review. While the Buckley letter concluded that then pending applications presented no national or foreign policy concerns preventing FCC consideration under its public interest test, it did not address instances where advocates seek to expand the transborder policy beyond incidental, spillover service "with nearby countries." Likewise, the Shultz-Baldrige letter addressed clear-cut, intercontinental service by separate systems when it imposed the public switched network access prohibition.

In the absence of interagency agreement on a definitive line between transborder and separate systems, domsat operators could attempt to configure a "transborder" service primarily intended for international markets throughout the Americas and even to parts of Europe and the Pacific basin. In view of the grave concerns expressed by INTELSAT and many of its constituent nations over the impact of intra-modal competition, expanding the transborder policy would increase such concerns and cast doubt on the U.S. commitment to INTELSAT.

As a result of the Jamaica Teleport decision and applications like that recently filed by AT&T for service to 33 nations and territories in the Americas, confusion and policy overlaps have arisen. Increasing ambiguity in applying both the transborder and separate system policy, particularly at the margin, warrant review even though the Working Group has no mandate to reconsider the transborder and separate system policies.

This Working Group should clearly articulate what constitutes the factors for determining whether the separate system or transborder policy applies in a particular instance. While the Working Group should concentrate primarily on assessing the scope of these policies, it should keep in mind a prevailing obligation to consider how to foster greater opportunities for all service providers to meet competition with flexibility and innovation. Toward that end, the Working Group, in its deliberations should consider other broad international satellite policies including:

- o eliminating, where feasible, government imposed restrictions on the full inter- and intra-modal facility and service competition;
- o complying with our obligations to INTELSAT, while reserving the right to advocate changes in policy and

direction to meet competitive and technological imperatives;

- o overhauling the "worst case" assumptions and methodology used by INTELSAT when assessing economic harm caused by separate or transborder systems; and
- o supporting ongoing efforts by INTELSAT to support its future roles in a more competitive environment.

Set out below are some of the questions this Working Group and the SIG itself should consider. In turn, the Working Group may wish to develop policy options, two of which are set out for our assessment.

#### QUESTIONS PRESENTED

- 1) Should the Commission apply its established transborder policy when considering the extensive applications like that recently filed by AT&T that contemplate coverage to points as far away as South America?
- 2) What obligation should the Commission have to consider Executive Branch views on whether the separate system policy applies, particularly where a nation could access both domsats and separate systems?
- 3) What strategy should the USG have for representing separate systems and extensive transborder services in Article XIV(d) economic consultations?
- 4) Does FCC authorization of extensive transborder applications have the effect of eliminating U.S. safeguards on separate systems designed to protect INTELSAT's core revenues?
- 5) Do the restrictions on separate system access to the public switched network make sense in view of the absence of current restrictions on transborder services?
- 6) Are there reasonable restrictions, e.g., allow 800 service, but deny IMTS, that should apply to extensive transborder systems to safeguard INTELSAT and retain some limit to the scope and nature of the Commission's transborder policy?
- 7) Under what circumstances should U.S. defense and other government agencies have the option to use domestic satellites for service to international points? Related to this question is consideration whether this

Working Group should address what government international satellite uses, e.g., NASA's TDRSS, should be exempt from Article XIV(d) economic consultation requirements because they involve "specialized telecommunications services requirements" as set out in Article XIV(e), or pertain to "national security purposes," as set out in Article XIV(g).

#### PRELIMINARY ANSWERS TO QUESTIONS PRESENTED

1) Recent developments, exemplified by the Jamaica Teleport decision, Anik (e) plan and the AT&T application for "transborder" service to 33 nations and territories prevent maintenance of the policy status quo. Absent FCC coordination and consultation with the Executive Branch, the existing transborder policy has the potential for substantial expansion in geographical coverage and scope of application.

A de facto extension of the transborder policy, absent thorough analysis, could modify broader U.S. international satellite policies, or its perception. To the extent the voluntary prohibition of access to the public switched network abated concerns over the economic impact of separate systems, the unrestricted proliferation of transborder systems resurrects such apprehensions.

While the proposed Jamaica Teleport use of domsat capacity passed muster with the INTELSAT economic consultation process, we can presume that future broad uses of domsats for international service, whether switched or not, will soon reach the threshold of economic harm to INTELSAT. Jamaica Teleport's application allegedly will cause a diversion of traffic equal to 3.1% of INTELSAT's projected revenues using its "worst case" assumptions and methodology. In the absence of substantial refinement and rethinking to this procedure, we can assume that expanded international uses of domsats will bring INTELSAT's total of cumulative economic harm to the level where increasing number of nations will oppose any additional favorable consultation.

The Commission, in consultation with the Executive Branch, should clearly articulate the factors its uses for determining when a particular application for international service falls within its transborder policy. As access to the public switched network is a permissible, but not absolute option, the Commission should also identify what conditions it would permit such access.

As evidenced by the Anik (e) plan, intent to serve domestic points may not suffice for purposes of determining whether the transborder policy applies. A boresight one mile north of the U.S. border may not demonstrate a commitment to serve domestic points primarily, with international service a secondary option occasioned by beam "spillover." Likewise, centering a Canadian

satellite beam in the heart of the U.S. might resolve bilateral negotiations, irrespective of the question whether such intent to serve U.S. points might have consequences on the transborder/separate system policy question.

2) It appears likely that a broad geographical region may be covered by both transborder domsats and future international separate systems. Under current policy, these international points may have access to switched services over domsats, while separate systems, purposefully international in nature, cannot access the switched public network at either end. Such application of current policies would have the anomalous result of affording domsats a better opportunity to serve new markets, despite our commitment to limit government intrusion in the marketplace so that robust inter- and intra-modal competition can occur.

The Commission has a basic obligation, under the Communications Act and the Administrative Procedure Act, to refrain from arbitrary or discriminatory policy making. In consultation with the Executive Branch, the Commission should enunciate clearcut groundrules for permitting domsats to serve international points, and what subset of these applications could include switched services. While such decisions must be made taking into consideration the current international telecommunications environment, the Commission should not feel constrained from authorizing access to the switched public networks simply because INTELSAT's existing economic harm analysis would project an unacceptable level of revenue diversion.

3) The USG has to bolster its advocacy for a more realistic assessment of the economic consequences resulting from intra-modal competition. Just as INTELSAT must negotiate with other satellite operators for orbital slots and interference abatement, so too must it recognize that it cannot unilaterally obstruct competition with procedures ostensibly to protect it from "significant economic harm."

In the face of increased intra-modal competition, from both domestic and international systems, INTELSAT has every incentive to block any system subject to a consultation obligation under Article XIV of the INTELSAT Agreement by invoking national treaty obligations to safeguard the organization from economic harm. The U.S. must assert that while its resolve to protect INTELSAT has not waned, it cannot accept the assumptions and methodology used by INTELSAT for assessing the economic consequences of competition.

On numerous occasions, the U.S. has already taken the position that INTELSAT's economic analysis ignores such factors as service cross elasticities, price differences, market growth

and INTELSAT's ability to respond to market entry. Ignoring such factors brings INTELSAT that much closer to the possible conclusion that any additional consultation would bring the cumulative total of revenue diversion to the threshold of significant economic harm.

One has to wonder what INTELSAT would do when confronted with the prospect of real shifts in traffic, rather than strictly hypothetical projections. If a separate system (like PanAmSat's 6 U.S.-Europe Ku-band transponders or Pacstar) was likely to cause an actual shift in traffic by 1%, would the currently employed methodology project a far greater percentage of traffic and revenue diversion? And if such theoretical diversion brought the cumulative total above the unofficial cap of 10% would INTELSAT attempt to block the system with a refusal to consult favorably?

Devoting vast amounts of time and resources to devise and employ ways to obstruct or delay separate system market entry ignores the question of why such systems emerge. Likewise it distracts INTELSAT from considering what it can do to meet their competitive challenge.

4) Expanded geographical coverage of transborder systems possibly creates the impression that the United States has abandoned its commitment to safeguard INTELSAT from economic harm. While no other country has voluntarily restricted domestic or international systems separate from INTELSAT, the perception of abandonment by the U.S. may be inferred as a relaxation of efforts to protect INTELSAT's core revenues.

Notwithstanding this impression, the Working Group should consider what dividends, if any, have accrued as a result of the voluntary restriction of separate system access to the public switched network. No evidence exists that the PanAmSat consultation was made any less arduous and controversial by the restriction. We can only assume that INTELSAT's worst case economic analysis would have projected an even higher percentage of revenue diversion if switched traffic had been permitted.

Because the INTELSAT economic consultation process makes no distinction between separate international systems and transborder domestic satellite use, the Working Group should assess the actual financial impact of both types. After a thorough analysis of likely traffic shifts, and the resulting financial impact on INTELSAT, the Working Group might conclude that access to the public switched network should be considered on the basis of nations or regions served, instead of being an option available only for transborder domsats. Implicit in this conclusion is the finding that transborder domsat access to certain dense switched traffic routes, now exclusively served by INTELSAT, could generate a far greater economic impact than non-



switched separate system international service to the same points.

5) The type of service and routes served by a competing system has a far greater potential impact on INTELSAT than the domestic regulatory classification or process under which the application is processed. Depending on the geographical region covered and the services offered, a transborder domsat could generate more revenue diversion from INTELSAT than a separate system. In considering the separate system public switched access prohibition, the Working Group should determine whether all separate systems would impose significant economic harm on INTELSAT absent the restriction. In the absence of such a finding, the Working Group should recommend a clearer articulation of conditions and criteria under which the restriction should apply.

As mentioned in the answer to Question 4 above, the restriction might have to be applied to certain types of both transborder domsats and international separate systems. Restricting access to the public switched network should be considered in the context of the nations or regions served rather than on the basis of previous or future intended uses or the center location of the satellite beam.

6) This question presumes a willingness of the Working Group to consider limiting transborder system access to public switched networks. In conjunction with this option, the Working Group should also consider whether to modify an absolute prohibition on separate system access to the public switched network. In both instances, the policies need to be more clearly outlined so that proper and flexible solutions to applications on the margin can be fashioned.

7) A variety of additional questions involving U.S. government use of separate and transborder systems needs review. Given the state of the INTELSAT economic harm consultation process, and the current level of cumulative economic harm, a strong incentive exists to find exceptions to the Article XIV(d) consultation obligation.

On a several occasions, the Department of Defense has certified that a particular international use of a domestic satellite would serve national defense and security interests. NASA's TDRSS applications, which contemplate Shuttle support as a national security use, may be perceived by INTELSAT and others as an attempt to find a wide loophole to the consultation obligation. Similarly, the definition and application of the Article XIV(e) specialized telecommunications exemption needs to be fleshed out beyond the conclusion that separate systems do not automatically fall within this classification by nature of the manner in which they propose to offer service.

POLICY OPTIONS

- o Subject all transborder domsat applications to separate system policy review, with liberal waiver of the public switched network access and the long term leasing requirement for:
  - 1) spillover services, i.e., domsats with CONUS boresights whose international services supplement existing or theoretically possible terrestrial microwave and cable systems; and
  - 2) regional services, including those with spot beams to non-CONUS U.S. territories or possessions, that INTELSAT technically could not provide, or those services that would not be carried via INTELSAT in the absence of the proposed service, e.g., because of cost considerations or the fact that the new service stimulated new demand rather than caused a migration from INTELSAT;

provided the nation served by the domsat agree in writing to permit access from the public switched network at either or both ends.

This option acknowledges the growing grey area where domsats may send a transborder signal, free of public switched network access restriction, but a similarly situated separate system would face such restrictions. In practice this option would establish a regional transborder policy permitting domsats to exploit the widest possible footprint, provided such service does not threaten the economic viability of INTELSAT and the receiving country expresses a willingness to handle switched traffic.

Previous INTELSAT consultations have addressed hemispheric, regional satellite systems and have limited their economic harm impact in appreciation of shared cultural heritage and language, e.g., Arabsat, existence of non-contiguous territories or possessions, e.g., French service to Departments in the Caribbean via Telcom 1, improbability of INTELSAT being used to provide the service, e.g., Eutelsat video, inability of INTELSAT to provide adequate or affordable service, e.g., Palapa, and recognition that the system augments existing or prospective terrestrial facilities.

Because this option may have the effect of allowing further coverage by domsats, its acceptability depends on the establishment of a realistic and fair assessment by INTELSAT of likely economic harm resulting from separate regional or international systems. If it can be demonstrated that U.S. regional and separate systems will not impose the double digit percent effect on traffic and revenues as INTELSAT would

currently conclude, then more "breathing space" exists for the coexistence of both systems.

- o Allow U.S. satellite systems, whether separate systems or domsats and regardless of boresights, to interconnect with public switched networks in each country if permitted by that country;

provided it can be concluded that the services contemplated and the country or regions served will not cause significant economic harm to INTELSAT.

In view of the fact that greater than 75% of INTELSAT's revenues accrue from switched services, INTELSAT should wacknowledge that customized, non-switched systems, whether transborder or separate system, impose a diminimis economic effect on INTELSAT. For these systems, INTELSAT should establish a streamlined economic harm consultation process, that presumably would attribute insignificant revenue diversion percentages for any system. The U.S. would not have to make a fine distinction between transborder and separate systems that do not propose to access the public switched network.

For systems that propose access to the public switched network, both INTELSAT and the U.S. government should undertake a thorough assessment of the prospective, real economic harm to INTELSAT. However, the U.S. should permit access to the switched network for either type system provided the nation conferring an operating agreement agrees in writing to receive traffic that originated over the U.S. public switched network and/or to permit origination of its own switched traffic. In instances where a foreign country will permit switched traffic, it presumably will have concluded that such traffic would not significantly harm INTELSAT. Accordingly, both the U.S. and its separate system or transborder partner would join in defending the system's use.

**EXECUTIVE SECRETARIAT**  
**ROUTING SLIP***ER*

TO:		ACTION	INFO	DATE	INITIAL
1	DCI				
2	DDCI				
3	EXDIR				
4	D/ICS				
5	DDI				
6	DDA				
7	DDO				
8	DDS&T				
9	Chm/NIC				
10	GC				
11	IG				
12	Compt				
13	D/OCA				
14	D/PAO				
15	D/PERS				
16	D/Ex Staff				
17	<i>D/LOGI</i>		<i>X</i>		
18	<i>(Signature)</i>				
19					
20					
21					
22					
SUSPENSE		Date			

Remarks

STAT

Executive Secretary

*13 Oct 87*  
Date

3637 (10-81)

Declassified in Part - Sanitized Copy Approved for Release 2012/05/14 : CIA-RDP90G00152R000300360001-7

CENTRAL INTELLIGENCE AGENCY

OFFICE OF THE DEPUTY DIRECTOR

*Process  
Appropriately*

Declassified in Part - Sanitized Copy Approved for Release 2012/05/14 : CIA-RDP90G00152R000300360001-7

Executive Registry

87-3162X/1



United States Department of State

*Bureau of  
International Communications  
and Information Policy*

Washington, D.C. 20520

September 28, 1987

TO: Members, International Communications and Information Policy SIG

FROM: Office of the U.S. Coordinator *EB*

SUBJECT: Summary Record of the SIG Meeting on International Communications and Information Policy, September 9, 1987.

The meeting was convened at 3:00 p.m., September 9, 1987 at the Department of State and was chaired by Under Secretary of State for Security Assistance, Science and Technology Edward J. Derwinski. Two items were on the agenda: 1) a review of the issues and status of U.S. preparations for the World Administrative Radio Conference for the Mobile Services (MOB (87)) and approval of the Scope Paper; and 2) treatment of "transborder" and "separate systems" in U.S. international satellite policy.

After welcoming the participants in the meeting, the Chairman introduced Ambassador David J. Markey, Chairman of the U.S. Delegation to MOB (87). Ambassador Markey summarized the preparatory activities for MOB 87, taking note of the work sponsored by the FCC in their public advisory committee, the NTIA in the IRAC forum and the inter-agency steering group of the State Department. In providing an overview of the Scope Paper, which had been distributed to agencies prior to the meeting, Ambassador Markey highlighted the broad U.S. goals that had been established for the Conference;

- to provide up-to-date regulations assuring safety of life and shipping on the high seas and the smooth flow of world maritime communications,

- to provide for safety of life and property in aeronautical services and the smooth flow of aeronautical communications,

- to provide flexibility in the international regulations for ensuring that U.S. future needs are met,

- to reduce regulatory, technical, and operational barriers, thus permitting introduction of new competitive technologies and creating markets for U.S. exports; for example, for new satellite services,

- to promote national security interests.



*B-60p-1R*

- 2 -

Ambassador Markey identified the four issues of major importance to the United States as: implementing the global maritime distress and safety system (GMDSS), including treatment of the current distress system; mobile satellite service (MSS) frequency allocations; radiodetermination satellite service (RDSS) frequency allocations; and overall revision of the high frequency bands which will have an impact on maritime radio communications.

Ambassador Dougan observed that opposition to the frequency allocations for MSS and RDSS had appeared both in Europe and from aviation interests for economic and technical reasons. She stated that it could be extremely useful if the DOD could engender additional support for the U.S. RDSS allocation proposal among its counterparts in NATO. At issue is sharing between RDSS and the fixed service at 1.6 GHz. Admiral Tuttle indicated the DOD would do whatever it could to assist the U.S. Delegation during the course of the Conference.

Returning to the Scope Paper, Chairman Derwinski indicated that its development had involved all elements of the U.S. Government concerned with the issues, as well as the U.S. private sector. Cooperation within the Government-industry delegation had been good.

Assistant Secretary of Commerce Sikes (NTIA) moved to approve the Scope Paper. Several principals seconded the motion and it was unanimously adopted.

Ambassador Dougan summarized the general responsibilities of the Home Team which, as in the past, was established to assist CIP in providing further guidance as required for the delegation in Geneva. She announced that Warren Richards (CIP/IRC) would be its Executive Director. Mr. Richards provided an overview of the major elements of the Home Team structure. Each SIG agency was requested to identify a key individual to participate.

In moving to the second agenda item, the Chairman asked Ambassador Dougan to outline the issues involved in the question of "separate systems" and "transborder" satellite policies. Ambassador Dougan said that over the past several years, as the USG has sought to remove regulatory impediments to the use of communications satellites consonant with U.S. obligations under the INTELSAT Agreement, two satellite policies have developed. U.S. "transborder" satellite policy dates from 1981 when a policy decision was made that under certain circumstances it would be in the national interest that

- 3 -

the spillover "footprint" of U.S. domestic satellites be used for public international communications with nearby countries. In this determination there was no prohibition on the interconnection with public telephone networks.

In the elaboration of the 1984 Presidential Determination that international satellite systems separate from INTELSAT were in the national interest, it was stipulated that, to protect the economic viability of INTELSAT, separate satellite service providers would not be permitted to interconnect the "public-switched" networks (essentially public telephone networks).

With the potential of new applications and new economic and technological resources, the delineations of the policies are becoming clouded. Moreover, there are likely to be challenges to the rationale for the application of different criteria to satellites with essentially identical capacity to provide services to a particular area. The FCC is currently facing a court challenge on this issue. Regardless of what decisions the FCC may make from a regulatory perspective, the Executive Branch had a responsibility to review the issues in the broader policy context. At minimum, a clarification of the groundrules and a clearer justification of the differences between these policies is warranted.

Mr. Richard Firestone (NTIA) and Mr. Randolph Earnest (State) gave additional details of the satellite policy issue contained in a discussion paper distributed at the meeting.

After brief discussion between the principals, there appeared to be consensus that indeed technology had eclipsed existing policies and there was a need to harmonize the policies and it was agreed that a SIG working group be established, co-chaired by Messrs. Firestone and Earnest, to study ways of resolving the problems related to the current situation of different policies governing U.S. transborder satellites and U.S. international satellites. Chairman Derwinski asked that the working group report back to the SIG during the first week in December.

As a final item of business, Chairman Derwinski announced that Mr. Sikes would chair the next meeting which will be convened in early December.

The meeting was closed at 4:15 p.m.

Attachment:

List of Participants.



## List of Participants

Edward J. Derwinski, Chairman	State	647-4404	
Ambassador Diana Lady Dougan	"	647-5832	
Administrator Al Sikes	NTIA	377-1845	
[redacted]	CIA	[redacted]	STAT STAT
Richard J. H. Barnes	NASA	453-8440	
Morton S. Smith	USIA/VOA	485-8009	
Michael T. N. Fitch	FCC	632-6940	
[redacted]	NSA	[redacted]	STAT STAT
Jerry O. Tuttle	OJCS/J-6	695-6478	
David J. Markey	Chairman,	463-4101	
	USDEL Mobile WARC		
Richard Bissell	AID	647-5482	
Robert Bemis	NSC	395-5830	
Bruce McConnell	OMB	395-3785	
R. C. Beaird	NTIA	377-1304	
Dan Clare	State	647-4404	
John M. Coles	FCC	632-7265	
Randolph Earnest	State	647-8344	
Richard Firestone	NTIA	377-1816	
Rob Frieden	NTIA	377-1304	
John Gilsenan	State	647-2592	
Wendell Harris	FCC	632-3214	
Mark Kieffer	NASA	453-8440	
William Kirsch	FCC	632-4047	
William Korvin	USIA	376-7720	
[redacted]	NSA	(301) [redacted]	STAT STAT
Lt. Col. John Morris	ASD (C3I)	697-4540	
L. M. Palmer	NTIA	377-1816	
Warren Richards	State	647-0049	
Norbert Schroeder	USIA/VOA	485-1760	
Carl W. Smith	DOD/DCA	692-8457	
Frank Urban	NTIA	377-1304	
[redacted]	CIA	[redacted]	STAT STAT

24 Sept '87

MEMO FOR RECORD:

A representative from the OGI/DI requested for action be changed on ER 3162X 87 to OGI instead of the DDA.




STAT

Enil -  
DDI is  
not ~~ass~~ sending  
anyone. Apparently,  
CIA has no interest.  
X X

**EXECUTIVE SECRETARIAT****ROUTING SLIP**

TO:

		ACTION	INFO	DATE	INITIAL
1	DCI				
2	DDCI		X		
3	EXDIR				
4	D/ICS				
5	DDI	X	(added 9/3)		
6	DDA	X			
7	DDO				
8	DDS&T				
9	Chm/NIC				
10	GC				
11	IG				
12	Compt				
13	D/OCA				
14	D/PAO				
15	D/PERS				
16	D/Ex Staff		X		
17	D/Commo/DA		X		
18					
19					
20					
21			X		
22					
SUSPENSE		Date _____			

Remarks

3637 (10-81)

Executive Secretary

28 Aug '87

Date

STAT

EXECUTIVE REGISTRY

87-3162X



United States Department of State

*Bureau of  
International Communications  
and Information Policy*

Washington, D.C. 20520

August 18, 1987

TO: SIG Membership on ICIP

FROM: CIP - Diana Lady Dougan, U.S. Coordinator *DL*

SUBJECT: Meeting of the SIG on International Communications  
and Information Policy

Despite the August doldrums we have a couple of issues which warrant consideration by the SIG on International Communications and Information Policy. Under Secretary Derwinski will chair a meeting September 9 addressing the following items:

-- Executive Branch's Separate Satellite and Transborder Satellite Policies

Discussion will cover the need to rationalize the Executive Branch's separate satellite and transborder satellite policies in light of interpretations being accorded to both by the FCC. The review is timely and appropriate since both policies were developed under the auspices of the SIG. CIP and NTIA staff will provide a briefing and update.

-- Review of Mobile WARC Scope Paper

As with other major ITU negotiations, U.S. preparations have been in process for several years for September's World Administrative Radio Conference on the use of Mobile Services (Mobile WARC). In addition to regular SIG agencies, DOT and FAA have also been actively involved. This meeting will provide a final briefing on this important conference which will do much to chart the future of Mobile Satellite Services. Our U.S. Delegation Scope paper based upon contributions by the agencies involved will be circulated in the interim.

The meeting will be held in the Deputy Secretary's Conference Room, 7th Floor, at 3:00 p.m. on September 9, 1987.

*B-601-15*

Declassified in Part - Sanitized Copy Approved for Release 2012/05/14 : CIA-RDP90G00152R000300360001-7

**Page Denied**

Next 1 Page(s) In Document Denied